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REMARKS

Claims 1-15 and 17 remain in the application. Claims 18 and 19 have been added.

The objection to claim 15 has been addressed by amendment.

§102 Rejections

Claims 1-3 were rejected under §102 as anticipated by Ko. Ko discloses a flashlight with an elongated housing having an electronic controller forward of the batteries, at the lamp end. The rejection is in error because it misstates what Ko discloses. The rejection states that Ko has at least two independent electrical paths between the first and second ends of the flashlight. In fact, Ko has only the conventional single electrical path between the ends: a conductive housing. The action illustrates multiple paths between switches 12, 13, 14, and the controller 3, and between the battery 11 and lamp 21, based on Figure 4.

However, Figure 3 of Ko shows that only one of these electrical paths extends between the ends of the flashlight. Switches 12 and 13, and the controller 3 are all forward of the batteries, so the connections between them are short, and do not extend between the ends of the flashlight. Similarly, the connection between the forward (non-ground) end of the battery 11 and the lamp is confined to the forward end of the flashlight, and does not extend between the ends. Of all the elements shown in Figure 4 as connected to the controller 3, only trigger 14 is at the rear of the flashlight, and only one electrical path extends to this element. If it were asserted that there was more than one electrical path in Figure 4, neither Figure 3 nor the text provides any support for such an interpretation, as the housing is the only illustrated or discussed means for providing an electrical path.

The second error in the rejection of claim 1 is in the assertion that the rear end switch 14 provides an input to the controller, to which the controller is responsive to deliver power to the lamp. In fact, the Ko switch 14, is an input that merely invokes a flashing signal mode in an already illuminated lamp, and does not generate a response of power delivery.

Accordingly, claim 1 and its dependents should be allowable over the cited reference.

Claim 2 should be allowable for the additional reason that action does not specify which switch is being asserted.

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Claim 8 was rejected under §102 as anticipated by Nilssen. Nilssen discloses a flashlight with a slider switch that has an off state, and on state, and a boost state in which a higher voltage is supplied to the lamp. The switch has a detent for the on state, and extra pressure provides higher brightness. Claim 8 has been amended to recite that applicant's switch is biased to the off state, unlike the cited reference that remains detented in the on condition when no force is applied.

Accordingly, claim 8 and its dependents should be allowable over the cited reference.

Claim 9 should be allowable for the additional reason that the cited reference does not disclose the claimed elements as asserted. The action states that Nilssen discloses a plurality of contact elements, each connected to a respective electrical component. However, the elements cited as "electrical components" (SC, SR) do not both qualify. SC is simply a contact, not a component connected to a contact. Moreover, the action does not indicate which contacts are alleged to be connected to which components.

In addition, the action asserts without support that the contact elements are operable in response to movement of an actuator to contact a common contact sequentially. There is no evidence that the cited reference varies the number of contacts based on the degree of force; the cited reference appears to have a single contact that is incapable of making multiple contacts in a sequential manner. For these additional reasons, claim 9 should be allowable.

Claim 10 should be allowable for the additional reason that the cited reference does not disclose the claimed elements as asserted. The action states that Nilssen discloses a resistor network, citing element SR, a single slide resistor intended to be contacted at a range of positions along its length. This is not a resistor network, which has several resistors, and which functions differently.

Claim 11 was rejected under §102 as unpatentable over McDermott. The rejection is in error because it fails to point out where the cited reference discloses a controller with the capability of providing momentary illumination with the application and release of limited force, and sustained illumination upon application and release of a greater force. The extensive passages (85 lines) cited in the action with respect to these principles are cited along with eight different features, yet not a single element number or description is cited, nor is there any indication which

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lines of the extensive passages support the action's assertion. Moreover, while the action cites one element as a controller, this element is cited as being disclosed in a different set of Figures and passages than are cited for the alleged capabilities of the controller.

Accordingly, claim 11 and its dependents should be allowable over the cited reference.

Claims 12 and 13 should be allowable for the additional reason that the action provides no support for the rejection, failing to cite any particular aspect of the cited reference that is alleged to disclose the claimed elements and features.

Claim 14 was rejected under §102 as anticipated by Nilssen. The rejection is in error because it fails to point out where the cited reference discloses each of the claimed features.

The error is in the action's assertion that the Nilssen controller is operable to provide dimmed lamp illumination in response to an application of force. Nilssen's switch, as discussed above, has a normal-brightness on position, and a range of over-brightness positions, with no dimmed position. In addition, even if the normal position were construed as a dimmed position, the normal position of Nilssen is detented, with no force being needed to provide illumination at that level. An application of force to the Nilssen switch generates illumination at a greater than minimum level.

Accordingly, claim 14 and its dependents should be allowable.

§103 Rejections

Claims 4-7 were rejected under 35 USC §103(a) as unpatentable over Ko in view of Nilssen. The rejections are traversed because the proposed combination would be non-functional, because there is inadequate motivation to make the proposed combination, because the combination is made in hindsight based on applicant's disclosure, and because the references teach away from the combination.

The first error in the rejection is in that the combination would not function. The Ko switch being cited at the tail end of the flashlight body serves to cycle a flashing feature. Substitution of the resistive slider switch of Nilssen at this location would defeat the flashing feature (teaching away from the combination), and fail to achieve any benefits of variable brightness. Moreover, even if it were acceptable to lose the flashing feature, location of the Nilssen switch at the tail

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end would require the further addition of multiple electrical connections from one end of the flashlight to the other, a feature not found in the art of record, and having manufacturing and operational disadvantages.

The second error in the rejection is that there is inadequate motivation to make the modification. Ko already has intensity regulation, and there is no evidence that this is lacking in any way. The notion that a tactile switch provides advantages is speculation, presumably based on hindsight, not any true objective articulated by the references. It is just as possible that if the articulated motivation of "greater control of the illumination brightness" were applicable, then the Ko brightness-setting system is more controlled than a spring-biased slider switch. Substitution of a tactile switch that returns to a base intensity level may be undesirable for those who wish to set a brightness level and operate at that level without needing to maintain a constant pressure to a switch. Accordingly, the references teach away from the proposed modification.

Claim 17 has been amended to clarify the distinction with respect to the switch of Nilssen, which has a detent not requiring force for operation at the lower light level, and which remains illuminated at that level when force is ceased.

All pending claims should be allowable for the above reasons. Reconsideration of the application is respectfully requested.

Respectfully submitted,
LANGLOTZ PATENT WORKS, INC.



Bennet K. Langlotz
Attorney for Applicant
Registration No. 35,928

LANGLOTZ PATENT WORKS, INC.
PO Box 759
Genoa, NV 89411
Telephone 877 230 5950
Facsimile 877 230 5950
Email patent@langlotz.com